

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TIMOTHY JOHN MIEROP,

Petitioner,

HONORABLE PAUL L. MALONEY

v.

Case No. 1:09-cv-1028

UNITED STATES OF AMERICA,

Respondent,

/

**ORDER TO FILE ANSWER OR OTHER PLEADINGS
AND DENYING APPLICATION TO PROCEED IN FORMA PAUPERIS**

The petitioner in this 28 U.S.C. § 2255 proceeding is the defendant in case number 1:07-cr-288-02 (*United States of America v. Timothy John Mierop*). It appears from both the language of Section 2255 as well as from the Advisory Committee Note of Rule 1 of the Rules Governing Section 2255 Proceedings in the United States District Courts that petitioner's Section 2255 motion should have been incorporated into the criminal proceedings. Therefore,

IT IS HEREBY ORDERED that this file be **CLOSED** and that movant's petition be transferred to the *United States of America v. Timothy John Mierop* file, case number 1:07-cr-288-02.

IT IS FURTHER ORDERED that the United States Attorney for the Western District of Michigan shall file an Answer or other pleading with respect to the motion to vacate, set aside, or correct sentence filed by the movant herein within sixty (60) days of the entry of this Order. The Answer shall comply with the requirements of Rule 5 of the Rules Governing

Section 2255 Proceedings for the United States District Courts.

IT IS FURTHER ORDERED that the movant may submit a Reply no later than fourteen (14) days from the service of the Answer in accordance with Rule 5 of the Rules Governing Section 2255 Proceedings for the United States District Courts.

IT IS FURTHER ORDERED that petitioner's Application to Proceed *In Forma Pauperis* on his Section 2255 Motion is **DENIED as unnecessary** since no fees are charged for the filing of a Section 2255 Motion in this District

Date: November 13, 2009

/s/ Paul L. Maloney

Paul L. Maloney
Chief United States District Judge